



AN ACT RESTRICTING TO MENTAL HEALTH PROFESSIONALS THOSE PERSONS WHO MAY OBJECT TO AND PREVENT THE USE OF TWO-WAY ELECTRONIC AUDIO-VIDEO COMMUNICATIONS IN INITIAL HEARINGS FOR CIVIL COMMITMENT; AND AMENDING SECTION 53-21-140, MCA.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

**Section 1.** Section 53-21-140, MCA, is amended to read:

**"53-21-140. Use of two-way electronic audio-video communication.** (1) For purposes of this chapter, a hearing that is conducted by the use of two-way electronic audio-video communication, allowing all of the participants to be observed and heard by all present, is considered to be a hearing in open court.

(2) Whenever the law requires that a respondent or patient in any of the hearings provided for in subsection (3) be present before a court, this requirement may, in the discretion of the court, be satisfied either by the respondent's or patient's physical appearance before the court or by two-way electronic audio-video communication. The audio-video communication must operate so that the respondent or patient, the respondent's or patient's counsel, and the judge can see each other simultaneously and converse with each other, so that the respondent or patient and the respondent's or patient's counsel can communicate privately, and so that the respondent or patient and counsel are both present during the two-way electronic audio-video communication. A respondent or patient may request that counsel from the board be present, for consulting purposes only, if the respondent or patient is located at the state hospital.

(3) At the discretion of the court, the following hearings may be conducted through two-way electronic audio-video communication:

- (a) the initial hearing provided for in 53-21-122;
- (b) the detention hearing provided for in 53-21-124;
- (c) the trial or hearing on a petition provided for in 53-21-126;
- (d) a hearing on posttrial disposition as provided for in 53-21-127;
- (e) a hearing on the extension of a commitment period as provided for in 53-21-128;

(f) a hearing on rehospitalization of a person conditionally released from an inpatient treatment facility as provided for in 53-21-197;

(g) a hearing on an extension of the conditions of release as provided for in 53-21-198.

(4) This section does not abrogate a person's rights under 53-21-115, 53-21-116, or 53-21-117. A respondent or patient, the respondent's or patient's counsel, and a friend of respondent or patient, if any, must be informed of these rights prior to a hearing by two-way electronic audio-video communication in lieu of a hearing in person. A respondent or patient or the respondent's or patient's counsel and a friend of respondent or patient, acting together, may waive any of the rights, as provided under 53-21-119.

~~—— (5) If a respondent or patient, the respondent's or patient's counsel, or the professional person object to two-way electronic audio-video communication in lieu of a hearing in person, the court may not allow a two-way electronic audio-video communication:~~

(5) A two-way electronic audio-video communication may not be used:

(a) in an initial hearing provided for in 53-21-122 if the professional person objects; or

(b) in a hearing referred to in subsections (3)(b) through (3)(g) if a respondent or patient, the respondent's or patient's counsel, or the professional person objects."

- END -

I hereby certify that the within bill,  
SB 0157, originated in the Senate.

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Secretary of the Senate

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President of the Senate

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2009.

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Speaker of the House

Signed this \_\_\_\_\_ day  
of \_\_\_\_\_, 2009.

SENATE BILL NO. 157  
INTRODUCED BY J. SHOCKLEY

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